

U.S. SENATE COMMERCE COMMITTEE
WRITTEN TESTIMONY OF
KANSAS ATTORNEY GENERAL CARLA J. STOVALL
FEBRUARY 26, 1998

Mr. Chairman and members of this Committee, I thank you for the privilege of appearing before you this morning in support of the comprehensive tobacco legislation that is in this Committee for your consideration.

Ten kids. Indulge me for a moment if you would and think of ten children you know. When I picture ten children, I first think of my two nephews and niece, Thomas, Colby and EmmaLee. Then I see Morgan and Addison, son and daughter of the man in my life. Then I think of Danielle and Megan, two very special girls, whom I met when they graduated from DARE classes that I spoke to. I picture Connor, the son of my administrative assistant, and Morgan and Maddie, the new step-daughters of my Public Information Officer.

I ask you to picture ten children - because that's how many children in Kansas will die prematurely from smoking related illnesses because they began smoking today. Today, while I'm here in Washington, D.C., thirty children in my home state will start smoking and 1/3 of them will die 12 to 21 years early from the likes of lung cancer, heart disease, and emphysema. I am embarrassed to tell you that this is higher than the national average of youngsters who take up this habit. Kansans love to rank high in national standings for wheat production, our Rhodes scholars, and for our KU Jayhawks basketball team. But not for the number of teens who succumb to the seduction of tobacco companies.

The ten kids, whose lives will be shortened by a decision they make today to begin smoking, are real kids. Somebody's sons and daughters. Somebody's brothers and sisters. Somebody's babysitters and lawn rakers. Real kids - who are absolutely affected by what we do as policy makers regarding cigarettes. This year in Kansas, 11,000 children will start smoking, but to be honest with you, I don't know 11,000 children so it's difficult for me to grasp the significance of that figure. I can understand though the fact that ten children in Kansas today will basically sentence themselves to death. In my mind, I can see the faces of ten kids and I can look into their sparkling eyes. I can hear their laughter. Ten kids dying is something I can feel.

It is because of the seduction of children by tobacco companies that in August 1996 I became the first Republican Attorney General to join this litigation. And remember if you would back to August of '96 - we were in the Presidential election when the Republican nominee, my own United States Senator, was saying that "nicotine isn't addictive." I like to think my decision to sue was courageous - although others in my state used different adjectives initially! But it was an easy call for me because of the children's health objective. I know it was that way for the majority of my colleagues too.

I am still pursuing my lawsuit, as are other Attorneys General, but what I can obtain if I prevail in Shawnee County District Court, which is no guarantee, is nothing compared to what

you can obtain for American children if you enact the legislation necessary to implement the national settlement. Kids in every state of this union will be the beneficiaries of your approval of this legislation. To achieve the maximum we can from Big Tobacco, it will take Congressional action and settlement agreements between Attorneys General and the tobacco companies. One without the other will not maximize the opportunity which exists today.

If Congress does not enact legislation my colleagues and I will undoubtedly begin trying to negotiate with the tobacco companies. I think we all believe we have come too far to simply walk away. I envision that one of two things will occur in that instance. The companies will tell us to "get lost" because we cannot grant them any requisites to entice them to settle. Or the Attorneys General will do the best we can, knowing that an agreement can give us more and better remedies than a court could, and work with the companies to find mutually acceptable terms to resolve our forty lawsuits. But the American public will not reap the benefits from forty separate settlements that they stand to gain from the one global settlement. And the federal government will not gain a single thing. No agreement for FDA to regulate nicotine, tar or the other 600 plus ingredients in cigarettes. The federal government will not receive one dime of the billions of dollars the global agreement will generate that has been earmarked for the national treasury. No uniform licensing system would be created to regulate retailers of cigarettes. And without the one item on the table the companies require - limited protection from lawsuits - it is doubtful Attorneys Generals could obtain the advertising curtailment the agreement currently provides. And the advertising restrictions are central to making real change in this industry. It is more than coincidence that 86% of youngsters who smoke, smoke the three most heavily advertised brands of cigarettes.

I received a letter from a young mother in Kansas just days after our lawsuit was announced. I want to share portions of it with you.

"Dear Miss Stovall,

My mother and I were discussing tobacco advertising and that's when she said I should write and tell you how I started smoking.

I was twelve years old when I started smoking, so was my mom, she quit when she had a stroke, I quit May 15, 1996. It was and still is the hardest thing I've ever done.

I came from a long line of smokers and it's still going on. I have a teenage niece and nephew who both started and it's got me worried that maybe my own young children might pick them up, and try them and stick with them just like I did.

I feel very strongly that advertisement, whether it be positive or negative, it does have an impact on anyone.

Thank you for reading my letter, I really hope it does something positive for the younger generation."

This letter is more reliable than any study which shows the causal link between advertisement and smoking. This young woman's letter is candid and her fear for her own children's health tangible. And there are thousands of young mothers just like Teresa all across this country - in your own states - who know firsthand the seduction of cigarettes and are

concerned over the appeal tobacco will hold for their own kids despite what they will relentlessly impart to them about the dangers of the addiction.

You know this legislation is the result of a negotiated settlement between the Attorneys General and the tobacco companies. To achieve a settlement both sides had to give something - that's the way settlements work. While there has been much approval and support for the agreement, there has been criticism from some quarters over its terms. I don't think any of us would tell you this is a perfect agreement. But this is real world out here. You don't reach a settlement without giving something. But what is so objectionable about the items the Attorneys General negotiated that would warrant letting this golden opportunity pass us by? No punitives for past wrongdoing? No class actions? Is that really so bad considering the restricted availability of punitive damages or class actions under current law in many states? In exchange for no Joe Camel, no billboards or vending machines? In exchange for no sponsorship of athletic or social events, no baseball caps or sport jackets? In exchange for \$368.5 billion over 25 years which could be used for smoking cessation programs, anti-tobacco education efforts, and enforcement actions? In exchange for substantial financial penalties if teen smoking is not sufficiently reduced in measurable term?

I have trouble understanding why some liability limitations could stand in the way of protecting American children in a way we never could have imagined even a year and a-half ago. The scales weighing the benefits of the agreement against the liability limitations absolutely tip in favor of moving full-speed ahead with adoption of the legislation and implementation of the agreement. It seems to me that if we do not "seize the moment," then we are charting a different course for this nation. One in which we move full-speed ahead - and navigate ourselves directly into a tragedy just as the ship in the current blockbuster movie propelled itself into the iceberg. I don't want to carry this metaphor too far, but instead of repeating the Titanic's disaster we could navigate ourselves toward paradise - where the next generation of youngsters will not be persuaded that smoking cigarettes is "cool" or "awesome," or whatever today's choice adjective is, as when we were teens. Instead of being regarded as "the thing to do," we can ensure kids regard smoking as the deadly, dangerous habit we know it to be. We have the ability now to change the entire culture of tobacco in America!

While this legislation and the global settlement will result in dramatic change in the health of Americans, which is reason enough to support the legislation, there is another reason this legislation is so critical. It is because of the message that your support sends to young people. There are teens in Kansas and other states who are energized by this issue and committed to educating their peers about the dangers inherent in smoking. Kansas had a smoke-free teens rally earlier this month in our state capitol attended by hundreds and hundreds of students. The kids obtained a horse-drawn hearse and made a life-size Joe Camel to lie in the coffin. These teens know the "ball is in your court" and they know your actions will allow the implementation of not just your legislative provisions, but also the terms of the settlement agreement which would put the last nails in the coffin of Joe Camel. They believe Joe Camel is responsible for hooking their brothers and sisters, friends and classmates, babysitters and mentors, to a lifetime of addiction which will eventually kill them. My Governor, who supports this agreement, is fond of saying that the best politics is good public policy. Surely, the opportunity we have today is a perfect

illustration of that axiom.

Young people must believe in their government and its elected officials. It is not just adults who have become cynical about "politicians." Actions which are clearly in the public's best interest and which hold wrongdoers accountable, is a step that will help restore the public's trust in elected officials and their government. To be perfectly frank, if this legislation fails, the public will not believe it is because of the opposition of Congress to the liability provisions. The American public will believe it is because Big Tobacco bought its way out of the agreement.

Teens in Barton County created this t-shirt design. "Kids shout: Butt Out. The Attorney General has warned you. Now it's my turn." I'm proud the kids recognize my commitment on this issue. But I'd be even more proud if the next run of t-shirts say "Congress has warned you too!"

I told you at the outset, that thirty Kansas children will begin smoking today and ten will die prematurely from smoking related illnesses. The average age of those thirty who light up today is twelve. My oldest nephew, Thomas, will be 12 next month - on March 16th. I cannot bear the thought of him beginning a habit which could steal him from my life 12 to 21 years early. Each of us must do all we can to protect not just Thomas, but every child - every Thomas - in this country.

The United States Congress has not just a window of opportunity here to make a difference - but a barndoor of opportunity. Please do not let the door slam shut on this unprecedented chance to change public health in America for all time. I would think there would never be a vote that would give you more pride than a "yes" vote on this legislation. Please support the proposed legislation and the global settlement.

Thank you again for the privilege of sharing my thoughts with you today.